



# Aetna Business Credit, Inc.

One of the AETNA LIFE & CASUALTY companies

111 Founders Plaza, Suite 1200  
East Hartford, Connecticut 06108  
(203) 528-4831

RECORDATION NO. <sup>8567</sup> Filed & Recorded

NOV 12 1976 3 22 PM

INTERSTATE COMMERCE COMMISSION

RECEIVED  
NOV 12 3 15 PM '76  
CERTIFICATION UNIT

RECORDATION NO. <sup>8568</sup> Filed & Recorded

NOV 12 1976 3 22 PM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission  
Washington, D.C.

6-317A045  
NOV 12 1976  
100

Gentlemen:

CC Washington, D.C.

This transaction involves the following parties:

Parties to the Mortgage  
(Agreement and Indenture  
[Security Agreement]):

The Citizens and Southern  
National Bank of South Carolina  
(Owner Trustee), Mortgagor;  
Aetna Business Credit, Inc.,  
Mortgagee

Lease:

Pickens Railroad Company,  
Lessee; The Citizens and Southern  
National Bank of South Carolina  
(Owner Trustee), Lessor; National  
Railway Utilization Corporation,  
Guarantor

The equipment covered by the Mortgage and the Lease is  
100 new 50 ft. type XM box cars bearing identifying numbers  
NSL 100,000 through NSL 100,099, both inclusive.

The Assignment of Lease and Agreement relates to the  
enclosed Lease which will have been recorded with the  
recording number \_\_\_\_\_ and will have been  
recorded on November \_\_, 1976 at \_\_ o'clock \_\_.M.

All documents submitted herewith for recordation should  
be returned to: Joel M. Hartstone, Esq., Hebb & Gitlin, 100  
Constitution Plaza, Hartford, Connecticut 06103. Please record  
the enclosed documents in accordance with 49 U.S.C. 20(c).

Very truly yours,

AETNA BUSINESS CREDIT, INC.

By Laurina D. Hillman  
Loan Officer

Intercept C.T. Kuyper

# Interstate Commerce Commission

Washington, D.C. 20423

November 12, 1976

OFFICE OF THE SECRETARY

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on November 12, 1976 at 3:20 pm , and assigned recordation number(s) 8567

Sincerely yours,



Robert L. Oswald  
Secretary

Enclosure(s)

SE-30  
(5/76)

# Interstate Commerce Commission

Washington, D.C. 20423

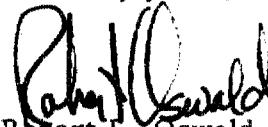
November 12, 1976

OFFICE OF THE SECRETARY

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on November 12, 1976 at 3:25 pm , and assigned recordation number(s) 8568 & 8568-A

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Robert L. Oswald", written over a horizontal line.

Robert L. Oswald  
Secretary

Enclosure(s)

SE-30  
(5/76)

RECORDATION NO. 8567 Filed & Recorded  
NOV 18 1976 3:20 PM  
INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

between

The Citizens and Southern National Bank of South Carolina  
(As Trustee, Lessor)

and

Pickens Railroad Company  
(Lessee)

Dated as of

November 1, 1976

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THIS EQUIPMENT LEASE dated as of November 1, 1976, between the person named in Item 1 of Annex A hereto (the "Lessor") (not individually, but as Trustee under a Trust Agreement [the "Trust Agreement"] with the person(s) named in Item 2 of Annex A hereto [the "Trustor", or if there be more than one, the "Trustors"], which agreement is described in Item 3 of Annex A hereto) and the person named in Item 4 of Annex A hereto (the "Lessee");

W I T N E S S E T H :

WHEREAS, the Lessor and the Lessee have entered into a Sale Agreement, dated the date hereof (the "Sale Agreement"), with the person named in Item 5 of Annex A hereto (the "Manufacturer") providing for the construction, sale and delivery to the Lessor of the railroad equipment (collectively the "Equipment" or "Items of Equipment" and individually an "Item of Equipment" or an "Item") described in Annex B hereto; and

WHEREAS, the Lessee desires to lease all of the Items of Equipment or such lesser number as are delivered to the Lessor and accepted under the Sale Agreement on or prior to the outside delivery date set forth in Annex B hereto, at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Equipment to the Lessee upon the following terms and conditions.

SECTION 1. DELIVERY AND ACCEPTANCE OF EQUIPMENT.

The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Annex B. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Item of Equipment is found to conform to the specifications therefor, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and to the Manufacturer thereof a certificate of acceptance (a "Certificate of Acceptance") substantially in the form attached hereto as Annex F, whereupon such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all of the terms and conditions of this Lease.

SECTION 2. RENTALS, PAYMENT DATES AND OTHER AGREEMENTS.

2.1 Rentals for Equipment. The Lessee agrees to pay to the Lessor the rental for the Items of Equipment leased hereunder as set forth in Annex C hereto.



2.2 Place of Rent Payment. All payments provided for in this Lease to be made to the Lessor shall be made to the Lessor by wire transfer of federal funds or otherwise immediately available funds at its address set forth in Item 6 of Annex A hereto, or at such other place as the Lessor or its assigns shall specify in writing.

2.4 Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Manufacturer, the Assignee, any assignee of the Lessor or the Assignee or any entity having a beneficial interest in the obligations to be performed under the Sale Agreement or Agreement and Indenture; nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful or unlawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private or public Person, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, any lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is (i) placed and ready for delivery to the Lessor on the Lessee's lines, (ii) is stored for the Lessor on the Lessee's lines or (iii) leaves the Lessee's lines for off-line delivery to the Lessor.

2.5 Additional Agreements. Additional agreements, if any, set forth in Annex D hereto shall be deemed to be a part of this Lease as fully as though such additional agreements had been set forth in this instrument.

### SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11 and 20 hereof, shall terminate on the date set forth or provided for in Item 7 of Annex A hereto.

#### SECTION 4. TITLE TO THE EQUIPMENT.

4.1 Retention of Title. The Lessor has acquired or is acquiring full legal title to the Equipment as Vendee under the Sale Agreement (but only upon compliance with all the terms and conditions thereof) and, it is understood that Lessee shall acquire no right, title and interest to the Equipment except hereunder notwithstanding the delivery of the Equipment to and the possession and use thereof by the Lessee.

4.2 Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road number as set forth in Annex B hereto, or in the case of Equipment not therein listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height the words set forth in Item 8 of Annex A hereto, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect (i) the title of the Lessor to such Item of Equipment, (ii) the Lessor's rights under this Lease and (iii) the rights of the Assignee or any assignee of the Assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such name or names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been (a) filed with the Lessor by the Lessee and (b) filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3 Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any Person to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee, its affiliates, or any sublessee under a sublease permitted by Section 17.2 hereof, on railroad equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee (or any such affiliate or sublessee) to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES; CLAIMS AGAINST MANUFACTURER.

THE LESSOR LEASES THIS EQUIPMENT AS IS, IN WHATEVER CONDITION IN WHICH IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED (BY LAW OR OTHERWISE), BY EITHER THE LESSOR OR ANY TRUSTOR, EACH EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED (BY LAW OR OTHERWISE), AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING BUT NOT LIMITED TO IT OR THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER; IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer as a result of any Manufacturer's warranties, all of which, if any, are described in Annex E.

SECTION 6. LESSEE'S INDEMNITY.

6.1 Scope of Indemnity. The Lessee shall defend, protect, indemnify and save harmless the Lessor and the Trustor and their successors and assigns (hereinafter collectively called "Indemnified Persons") from and against:

(a) any and all loss or destruction of, or damage to the Equipment, usual wear and tear excepted, and

(b) any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, losses, injuries and expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise, out of this Lease or the Equipment, including without limitation those in any way relating to or arising, or alleged to arise, out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Item of Equipment or portion thereof, (ii) any latent and other defect whether or not discoverable by the Lessee or the Lessor, (iii) any claim for patent, trademark or copyright

infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned or connected with, alleged to grow out of or be concerned or connected with, the ownership, possession, use, operation, condition, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned, used or under the control of the Lessee, or any other Person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, possession, use, operation, condition, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Lessor's retention of title under this Lease. The Lessee shall be obligated under this Section 6 irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 6 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request will, at the Lessee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by independent counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment ("Indemnity Payment") under this Section 6, the Lessee shall pay such Indemnified Person, together with such payment, an amount which, after deduction from the Indemnity Payment and such additional amount of all taxes required to be paid by such Indemnified Person, as the case may be, in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall result in the Indemnified Person's receiving, net of all such deductions, an amount equal to the amount of such Indemnity Payment. Each of the Lessor and the Lessee agrees to give each other, promptly upon obtaining knowledge

thereof, written notice of any claim or liability hereby indemnified against but failure to give such notice shall not relieve the Lessee of its liability hereunder. Upon the payment in full of any indemnities as contained in this Section 6 by the Lessee, and provided that no Default or Event of Default shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter as to which indemnity has been given.

#### 6.2 Continuation of Indemnities and Assumptions.

The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect, as to matters arising or events occurring during the term of this lease or any renewal term thereof, notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or of the Lease or otherwise, and are expressly made for the benefit of and shall be enforceable by, any Indemnified Person.

#### SECTION 7. COMPLIANCE WITH LAWS, REGULATIONS, ETC.

During the term of this Lease, the Lessee will comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws, regulations, requirements and rules of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws, regulations, requirements and rules affect the title, use, maintenance or operation of the Equipment, and in the event that such laws, regulations, requirements or rules require any alteration, replacement or addition of or to any Item of Equipment or any part thereof or thereon, the Lessee will conform therewith at its own expense and will maintain the same in proper condition for operation under such laws, regulations, requirements and rules, provided, however, that the Lessee may, in good faith, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property, the value of the property or rights of the Lessor under this Lease.

#### SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable

for use in interchange. The Lessee shall not modify any Item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld, provided that no such approval shall be necessary if, and to the extent such modification is required by Section 7 hereof. Any parts installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

#### SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all sums claimed by any Person against, through or under the Lessee and its successors or assigns which, if unpaid, might result in a lien, charge or security interest upon or with respect to the Equipment, or any Item of Equipment, and any liens, encumbrances or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not, in the opinion of the Lessor, affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of the Lease.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

#### SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1 Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessee will, at its sole expense, cause this Lease and the Agreement and Indenture, any assignment hereof or thereof, and any amendment or supplement hereto or thereto, in each case to be duly filed, registered, recorded or deposited and refiled, reregistered, rerecorded or redeposited in conformity with the Interstate Commerce Act and in such other places within or without the United States as the Lessor may reasonably request for the protection of its title or the security interest of the Assignee and will furnish the Lessor proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or

rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the Assignee's security interest in, the Equipment to the satisfaction of the Lessor and the assignee and their respective counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to its compliance with the foregoing provisions of this Section 10.1.

10.2 Payment of Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipt taxes arising out of receipts from use or operation of the Equipment and other taxes, fees, and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter collectively called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Item of Equipment; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the advance written opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Sale Agreement. If any Impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor upon presentation of invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse Lessor for any Impositions so paid unless the Lessor shall have submitted notice in writing to the Lessee at least five (5) business days in advance of payment thereof.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Assignee in such Items of Equipment or notify the Lessor and the Assignee of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Assignee.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

#### SECTION 11. INSURANCE, PAYMENT FOR CASUALTY OCCURRENCE OR EQUIPMENT UNSERVICEABLE FOR USE.

11.1 Insurance. The Lessee will at all times after delivery and acceptance of each Item of Equipment, at its own expense, procure and maintain or cause to be procured and maintained insurance for each such Item written by a sound and reputable insurance company or companies (satisfactory to the Lessor and the Assignee) for all risk, physical loss and damage in an amount equal at all times to the Casualty Value (as defined in Section 11.6) thereof. Such insurance may provide that losses shall be adjusted with the Lessee and shall provide that the proceeds thereof shall be subject to a lender's loss payable endorsement in favor of the Assignee and shall be payable to the Lessor, the Assignee, and the Lessee as their interests shall appear. So long as no Default or Event of Default shall have occurred and be continuing hereunder, all proceeds of insurance received by the Lessor and the Assignee with respect to any Item of Equipment not suffering a Casualty Occurrence (as defined in Section 11.2) shall be paid to the Lessee upon proof satisfactory to the Lessor and the Assignee that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor and the Assignee with respect to a Casualty Occurrence shall be credited toward the payment required by Section 11.3 with respect to such Casualty Occurrence.

11.2 Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall (a) be or become worn out, lost, stolen, destroyed or irreparably damaged during the term of this Lease, including any renewal term hereunder, or thereafter while the Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or (b) shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease, including any renewal terms hereunder (any such occurrence under (a) or (b) above, except for any requisition which by its terms



is for an indefinite period or is for a stated period which does not exceed the term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and the Assignee in regard thereto and shall pay the Casualty Value of such Item in accordance with the terms hereof.

11.3 Payment for Casualty Occurrence. The Lessee, on the next succeeding Rental Payment Date following a Casualty Occurrence with respect to any Item of Equipment, shall pay to the Lessor the rental installment due on such Rental Payment Date for such Item of Equipment plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment. Concurrently with each payment of Casualty Value the Lessee shall file or cause to be filed with the Lessor a certificate executed by the President or a Vice President and the chief accounting officer of the Lessee setting forth the Casualty Value of each Item of Equipment as to which such payment is then being made.

11.4 Rent Termination. Upon (and not until) payment of the Casualty Value due in respect of any Item of Equipment and the rental installment due on such Rental Payment Date, the obligation to pay rent (accruing subsequent to the Casualty Value payment date) for such Item of Equipment shall terminate, but the Lessee shall continue to pay rent for each and every other Item of Equipment.

11.5 Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair value thereof. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, the Lessee may, if but only if the Casualty Value thereof has been paid by the Lessee to the Lessor, retain all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any, to the Lessor. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.6 Casualty Value. The Casualty Value of each Item of Equipment shall be an amount (determined as of the date the Casualty Value is paid as provided in this Section 11, and not as of the date of the Casualty Occurrence) equal to that percentage of the purchase price (as such purchase price is set

forth in a bill of sale issued pursuant to the Sale Agreement) of such Item of Equipment set forth, in the Schedule of Casualty Value attached hereto as Annex G, opposite the Rental Payment Date Number corresponding to the Rental Payment Date as of which the Casualty Value of such Item is being determined.

11.7 Risk of Loss. The Lessee shall bear all risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until (i) payment of the Casualty Value and the rental installments due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, (ii) such Item or the salvage thereof has been disposed of by the Lessee and (iii) the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8 Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. So long as no Default or Event of Default shall have occurred and be continuing hereunder, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

## SECTION 12. REPORTS AND INFORMATION.

12.1 Duty of Lessee to Furnish. On or before March 31 in each year, commencing with the year next following the year in which this Lease was executed, the Lessee will furnish to the Lessor and the Assignee an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence or are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repairs (other than running repairs) during the preceding 12 months (or since the date of this Lease, in the case of the first such statement) and such other information regarding the condition or repair of the Equipment as Lessor may reasonably

request, (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced, and (c) describing the insurance coverage, if any, maintained by the Lessee pursuant to Section 11.1 hereof.

12.2 Lessor's Inspection Rights. The Lessor and the Assignee each shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or, as the case may be, the Assignee the existence and proper maintenance thereof during the continuance of this Lease.

12.3 Financial and Other Reports. The Lessee will furnish to the Lessor:

(a) Quarterly Statements. As soon as practicable after the end of each quarterly fiscal period in each fiscal year of the Lessee, and in any event within forty-five (45) days thereafter, duplicate copies of:

(1) A consolidated balance sheet (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case as at the end of such quarter, and

(2) Consolidated statements of income and of surplus (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter, and

(3) A statement of material changes of accounting policies, presentation or principles during such quarter.

Each of the above shall set forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail and certified as complete and correct, subject to change as resulting from year-end adjustments by a principal financial officer of the Lessee.

(b) Annual Statements. As soon as practicable after the end of each fiscal year of the Lessee, and in any event within ninety (90) days thereafter, duplicate copies of:

(1) A consolidating and consolidated balance sheet (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case as at the end of such year, and

(2) Consolidating and consolidated statements of income and of surplus (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case for such year, and

(3) A consolidating and consolidated statement of changes in the financial position (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case during such year, and

(4) A consolidating and consolidated statement of changes in earned surplus (x) of the Lessee and its subsidiaries and (y) of any parent corporation of the Lessee and its subsidiaries, in each case during such year, and

(5) A statement of material changes of accounting policies, presentation or principles during such year.

Each of the above shall set forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and accompanied by an opinion thereon of an independent certified public accountant of recognized national standing, selected by the Lessee and satisfactory to the Lessor, which opinion shall state that such financial statements have been prepared in accordance with generally accepted accounting principles, procedures and practices consistently applied (except for changes in application in which such accountants concur) and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances.

(c) Audit Reports. Promptly upon receipt thereof, one copy of each other report submitted to the Lessee or any subsidiary by independent accountants in connection with any annual, interim, or special audit made by them of the books of the Lessee or any subsidiary.

(d) SEC and Other Reports. Promptly upon their becoming available one copy of each financial statement,

report, notice, or proxy statement sent by the Lessee or any subsidiary to stockholders generally, and of each regular or periodic report and any registration statement, prospectus, or written communication (other than transmittal letters) in respect thereof filed by the Lessee or any subsidiary with, or received by Lessee or any subsidiary in connection therewith from, any securities exchange or the Securities and Exchange Commission or any successor agency.

(e) Notice of Default or Event of Default. Immediately upon becoming aware of the existence of any condition or event which constitutes a Default or an Event of Default, a written notice specifying the nature and period of existence thereof and what action the Lessee is taking and proposes to take with respect thereto.

(f) Notice of Claimed Default. Immediately upon becoming aware that the holder of any obligation or of any evidence of indebtedness or other security of the Lessee or any subsidiary has given notice or taken any other action with respect to a claimed default or event of default, a written notice specifying the notice given or action taken by such holder and the nature of the claimed default or event of default and what action the Lessee is taking or proposes to take with respect thereto.

(g) Material Adverse Developments. Immediately upon becoming aware of any developments or other information which may materially and adversely affect the properties, business, prospects, profits or condition (financial or otherwise) of the Lessee or its ability to perform its obligations under this Lease, telephonic or telegraphic notice specifying the nature of such development or information and such anticipated effect.

(h) Requested Information. With reasonable promptness, such other data and information as from time to time may be reasonably requested by the Lessor.

12.4 Officers' Certificate. Each set of financial statements delivered pursuant to Section 12.3(a) or 12.3(b) will be accompanied by a certificate of the President, or a Vice President, and the Treasurer, or an Assistant Treasurer, of the Lessee, setting forth:

(a) Covenant Compliance. The information (including detailed calculations) required in order to establish whether the Lessee was in compliance with all financial covenants contained in Annex D hereto during the period covered by the financial statements then being furnished; and

(b) Event of Default. That the signers have reviewed the relevant terms of this Lease (and all other agreements and exhibits between the parties) and have made, or caused to be made, under their supervision, a review of the transactions and conditions of the Lessee and its subsidiaries from the beginning of the accounting period covered by the income statements being delivered therewith to the date of the certificate and that such review has not disclosed the existence during such period of any condition or event which constitutes a Default or Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee has taken or proposes to take with respect thereto.

12.5 Accountant's Certificate. Each set of annual financial statements delivered pursuant to Section 12.3(b) will be accompanied by a certificate of the accountants who certify such financial statements, stating that they have reviewed this Lease (and all other agreements between the parties) and stating further, whether in making their audit, such accountants have become aware of any condition or event which then constitutes a Default or Event of Default, and, if any such condition or event then exists, specifying the nature and period of existence thereof.

12.6 Inspection. The Lessee shall permit the Lessor or its representatives to make inspections of its books, accounts, records, orders, original correspondence, and such other papers as it may desire and of its premises, Equipment and other properties. The Lessee shall supply copies of such records and papers as the Lessor may request, and shall permit the Lessor to discuss the Lessee's respective affairs, finances, and accounts with the Lessor's officers, employees, and independent public accountants (and by this provision the Lessee hereby authorizes said accountants to discuss with the Lessor the finances and affairs of the Lessee and its subsidiaries) all at such reasonable times and as often as may be reasonably requested. The Lessee further agrees to supply the Lessor with such information relating to the Lessee, its subsidiaries, and the Equipment as the Lessor shall request.

#### SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks

of the Lessee as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. During any such storage period the Lessee shall maintain the Items of Equipment in such manner as the Lessee normally maintains similar equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment.

#### SECTION 14. DEFAULT.

14.1 Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) The Lessee shall fail to pay in full any part of the rental or any other sum as provided for in Section 2, Section 6 or Section 11 hereof;

(b) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any Item or portion thereof; or

(c) The Lessee shall fail to comply with any covenant set forth in Part 2 of Annex D hereto; or

(d) The Lessee shall fail or refuse to comply with any other covenant, condition, agreement, term or provision of this Lease on its part to be kept or performed or to make a provision satisfactory to the Lessor for such compliance for more than thirty (30) days after such failure shall first become known to any officer of the Lessee; or

(e) Any warranty, representation or other statement made by the Lessee, or any Guarantor of the Lessee's obligations hereunder, contained in this Lease or the Agreement and Indenture, or contained in any statement, certificate, document, agreement or instrument in connection herewith or therewith, proves to have been false or misleading in any material respect when made or furnished; or

(f) Any loss, theft, substantial damage or destruction (not fully covered by insurance) to, or any sale, lease or encumbrance of, any of the Equipment or the making of any levy, seizure or attachment of or upon any of the Equipment shall occur or exist, except in all cases as may be specifically provided for by other provisions of this Lease; or

(g) A petition for reorganization under Section 77 of the Bankruptcy Act (or any successor act), as now constituted or as hereafter amended, shall be filed by or against the Lessee (if against the Lessee, the continuation of such proceedings for more than thirty (30) days) and all of the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such a manner that such obligations shall have the same status as obligations incurred by a trustee or trustees within thirty (30) days after such appointment or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or

(h) Any other proceedings shall be commenced by or against the Lessee or any Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (if against the Lessee or any Guarantor, the continuation of such proceedings for more than thirty (30) days) and all of the obligations of the Lessee under this Lease, or such Guarantor under any agreement of guaranty, shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee, or such Guarantor, or for the property of the Lessee, or such guarantor, in connection with any such proceedings in such a manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within thirty days after such appointment or sixty days after such proceedings shall have been commenced, whichever shall be earlier; or



(i) Any dissolution, termination of existence, insolvency (failure to pay its debts as they mature or the failure to maintain its asset value in excess of its liabilities), business failure, appointment of a receiver or assignment for the benefit of creditors of the Lessee or any Guarantor, or the making by either the Lessee or any Guarantor of any offer of settlement, extension or composition to the respective unsecured creditors generally; or

(j) Any attachment, injunction, execution, tax lien or judgment for the payment of money in excess of \$10,000 shall be issued or filed against the Lessee or any Guarantor and not discharged in full or stayed within thirty (30) days after its issuance or filing; or

(k) The Lessee or any Guarantor shall fail to make any payment due on any indebtedness or other security or any payment due under any lease or any event shall occur (other than the mere passage of time) or any condition shall exist in respect of any indebtedness, other security or lease of the Lessee or any such Guarantor, or under any agreement securing or relating to such indebtedness, other security or lease, the effect of which is (i) to cause (or permit any holder of such indebtedness or other security or any lessor under any such lease or a trustee to cause) such indebtedness or other security, or a portion thereof, or any amounts due under any lease to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, (ii) to permit a trustee or the holder of any security (other than common stock of the Lessee or any such Guarantor, respectively) to elect a majority of the directors on the Board of Directors of the Lessee or such Guarantor, or (iii) to cause or allow lessor of any such lease to terminate such lease prior to its regularly scheduled date of termination; or

(l) Any material adverse change shall occur in the financial condition of the Lessee or any Guarantor.

14.2 Remedies. If any Event of Default has occurred and is continuing, the Lessor, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all rights of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the

Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever and the Lessor may, if it so chooses, sell the Equipment or any part or Item thereof at public or private sale as the Lessor may determine, free and clear of any right or rights of the Lessee or its successors or assigns, and the Lessor shall, without regard to whether or not Lessor shall have exercised any of the above provided for rights, have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as liquidated damages for loss of the bargain and not as a penalty the greater of (x) a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Market Rental Value of such Item for such period (computed by discounting, from the end of such term to the date of such termination, rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period), such present worth to be computed in each case on the basis of a 6% per annum discount, compounded annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; or (y) a sum, with respect to each Item of Equipment, which represents the excess of the Casualty Value, at the time of such termination, over the lesser of the actual sale price of such Item of Equipment (if such Item of Equipment has theretofore been sold as above provided for) or the Fair Market Sale Value of such Item of Equipment (computed on the basis of the value which would obtain in an arm's length transaction between an informed and willing buyer/user [other than (i) a lessee currently in possession or (ii) a used equipment dealer] and an informed and willing seller under no compulsion to sell); plus (in the case of either (x) or (y) above) interest (to the extent allowed by law) at the rate of 15% per annum on any sum due pursuant to subparagraph (x) or subparagraph (y) above from the time of such termination to the date of payment, and (ii) any damages and expenses (in addition to any recovered with respect to the loss of the bargain, as specifically provided for above) including, but not limited to, all costs related to the collection of any sum due hereunder (including reasonable attorney's fees), maintenance and sale of the Equipment, appraisers' fees, etc., which

the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease. The "Fair Market Rental Value" or the "Fair Market Sales Value" of any Item of Equipment shall be as specified in an appraisal by a recognized independent railroad equipment appraiser chosen by the Lessor; or

(c) Recover from the Lessee, for application towards any amount due hereunder, any and all per diem payments and incentive per diem payments made to the Lessee for use of the Equipment and any and all rental payments paid to the Lessee by any sublessee of the Equipment, any and all of which the Lessee agrees it will hold in trust for the Lessor upon any Event of Default hereunder.

14.3 Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies for or with respect to a breach of a lease in its favor existing at law or in equity, notwithstanding any termination of this Lease at the option of the Lessor as in Section 14.2(b) provided for. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rent payments due hereunder, and agrees to make the rent payments regardless of any off-set or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.4 Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

#### SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1 Lessee's Duty to Return. If the Lessor or the Assignee shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor; and

(c) Transport the Equipment to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may direct in writing.

15.2 Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment. The Lessee hereby expressly waives any and all claims against the Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

15.3 Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whosoever shall be at the time in possession of such Item.

#### SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and other sums due and to become due hereunder have been assigned to the Assignee pursuant to the Agreement and Indenture (including, without limitation, Section 4.1 thereof), and all rent and other sums due and to become due hereunder shall be paid to the Assignee at the address set forth in Item 9 of Annex A hereto, or at such other place as the Assignee shall specify in writing. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor, the Assignee or any other Person, to the Lessee or to any

other Person or for any cause whatsoever, it being the intent hereof that the Lessee shall be unconditionally and absolutely obligated to pay to the Assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor. The Lessee recognizes that it is common practice for leases such as this Lease to be assigned and reassigned as part of various types of financing arrangements. The Lessee agrees that in the event of any assignment by the Assignee of its rights hereunder to a subsequent assignee, such assignee will be entitled to all rights of the Assignee hereunder.

#### SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1 Lessee's Rights to the Equipment. So long as no Default or Event of Default shall exist under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2 Use and Possession on Lines Other Than Lessee's Own. So long as no Default or Event of Default shall exist under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon lines of railroad over which the Lessee or such corporation has trackage or other operating rights or over which Equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of Items of Equipment upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. Notwithstanding the foregoing, the Lessee will not assign any Item of Equipment to service including the regular operation and maintenance thereof outside the United States of America. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

SECTION 18. OPINION OF LESSEE'S COUNSEL.

Concurrently with the delivery and acceptance of any Item of Equipment hereunder, the Lessee will deliver to the Lessor fifteen (15) counterparts of the written opinion of counsel for the Lessee addressed to the Lessor, the Assignee and the Trustors, in scope and substance satisfactory to such parties, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the state of its incorporation;

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease, the Finance Agreement and the Consent to Assignment have each been duly authorized, executed and delivered by the Lessee and each constitutes the valid, legal and binding agreement of the Lessee enforceable in accordance with its respective terms;

(d) No filing, registering, recording, or depositing of this Lease, other than with the Interstate Commerce Commission, in accordance with Section 20c of the Interstate Commerce Act (which action has been taken), is necessary to preserve or protect the title of the Lessor (or its assignee), in and to all Equipment subject to the Lease, in any state of the United States of America or the District of Columbia;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance by the Lessee of the Agreement and Indenture, the Finance Agreement or this Lease.

(f) The execution and delivery by the Lessee of this Lease, the Finance Agreement and the Consent to Assignment do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which the Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except as contemplated and permitted hereby; and

(g) As to any other matter which the Lessor shall reasonably request.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay an amount equal to 15% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. OPTIONS TO PURCHASE AND RENEW.

20.1 Purchase Option. Provided that no Default or Event of Default shall have occurred and be existing hereunder, the Lessee shall have the following option to purchase:

(a) The Lessee shall have the right to purchase all but not less than all of the Items of Equipment then leased hereunder at the expiration of the original term or of any renewal term pursuant to Section 20.2 hereof at a price equal to the Fair Market Value of such Items of Equipment (as hereinafter defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section 20. Payment of the option price shall be made at the place of payment provided for in Section 2 hereof in funds then and there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(b) The Fair Market Value of an Item of Equipment shall be determined as set forth in Annex H hereto, unless there be no Annex H in which case it shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer/user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell. If on or before 60 days prior to the date of purchase elected by the Lessee, the Lessor and the

Lessee are unable to agree upon a determination of the Fair Market Value of an Item of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

(c) Notwithstanding any election of the Lessee to purchase as provided in this Section 20.1, the provisions of Section 11 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Items of Equipment purchased by the Lessee upon such date unless the purchase price has been agreed upon by the parties pursuant to this Section 20.1, in which event the amount payable under Section 11 hereof shall be the greater of the amount otherwise payable under said Section 11 or such purchase price.

20.2 Renewal Options. Provided that the Lessee is not in default hereunder, the Lessee shall have the following renewal options:

(a) The Lessee shall have the option to renew and extend this Lease as to all, but not less than all, of the Items of Equipment then leased hereunder for one or more (but not more than five) additional renewal terms of one year each upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the fixed rental payable for and during any such renewal term shall be an amount equal to the Fair Rental Value (as hereinafter defined) of such Items of Equipment and shall be payable periodically on the dates on which rental payments are payable hereunder. Each renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice of any such election 180 days prior to the commencement of any renewal term provided for in this Section 20.2.

(b) The Fair Rental Value of an Item of Equipment shall be determined as set forth in Annex I hereto, unless there be no Annex I, in which case it shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a



lessee currently in possession) and an informed and willing lessor under no compulsion to lease. If on or before 60 days prior to the date of commencement of the renewal term elected by the Lessee, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of the Item of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

20.3 Delivery of Equipment to Lessor. Unless the Lessee has elected to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 20, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

## SECTION 21. MISCELLANEOUS.

21.1 Certain Definitions. For purposes of this Lease, the following terms shall have the respective meanings set forth below or provided for in the section of this Lease following such term (such definitions to be equally applicable to both the singular and plural forms of the terms defined):

"Agreement and Indenture" or "Indenture" - The instrument, substantially in the form of Exhibit E to the Finance Agreement, pursuant to which, inter alia, the Lessor shall grant to the Assignee a Security Interest in the Equipment and in this Lease.

"Assignee" - Aetna Business Credit, Inc., a corporation having an office at 111 Founders Plaza, East Hartford, Connecticut 06108, and any successors and assigns of its rights under the Indenture.

"Casualty Occurrence" - Section 11.2.

"Casualty Value" - Section 11.6.

"Certificate of Acceptance" - Section 1.

"Consent to Assignment" - The instrument, substantially in the form of Exhibit G to the Finance Agreement, wherein the Lessee and the Guarantor shall consent to the assignment by the Lessor of its rights hereunder and under the Guaranty of Lease.

"Default" - Any event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Equipment" - The first paragraph of the Recital Section.

"Equipment Lease" or "Lease" - This instrument as originally executed or as it may from time to time be supplemented or amended.

"Event of Default" - Section 14.1.

"Fair Market Rental Value" - Section 14.2.

"Fair Market Sale Value" - Section 14.2.

"Fair Market Value" - Section 20.1(b).

"Fair Rental Value" - Section 20.2(b).

"Finance Agreement" - The finance agreement to which the parties hereto were parties and pursuant to which, and substantially in the form of Exhibit C thereto, this Lease has been entered into by the parties hereto.

"Guarantor" - The Person executing the Guaranty of Lease, and any other guarantor of the Lessee's obligations herein contained.

"Guaranty of Lease" - The instrument, substantially in the form of Exhibit D to the Finance Agreement, whereby the obligations of the Lessee hereunder have been guaranteed by the Guarantor.

"Imposition" - Section 10.2.

"Indemnified Person" - Section 6.1.

"Item" - Paragraph 1 of the Recital Section.

"Lessee" - The Lessee named at the beginning of this Lease and its successors and assigns.

"Lessor" - The Lessor named at the beginning of this Lease and its successors and assigns.

"Manufacturer" - The first paragraph of the Recital Section.

"Person" - An individual, partnership, corporation, trust or incorporated organization, and a government or agency or political subdivision thereof.

"Recital Section" - That section of this Lease preceding Section 1 hereof.

"Rental Payment Date" - With respect to any Item of Equipment shall mean the 15th day of each month during the term of the Lease with respect to such Item of Equipment commencing on the 15th day of the second month following the month in which such Item was delivered to the Lessee.

"Rental Payment Date Number" - With respect to any Rental Payment Date shall mean the number of Rental Payment Dates which shall have elapsed with respect to such Item of Equipment (including in such number such Rental Payment Date) as of such Rental Payment Date.

"Sale Agreement" - The first paragraph of the Recital Section.

"Trust Agreement" - The Trust Agreement referred to at the beginning of this Lease.

"Trustors" - The Trustors referred to at the beginning of this Lease.

21.2 Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mail, registered or certified, postage prepaid, addressed as follows:

If to the Lessor:	As set forth in Item 10 of Annex A hereto
If to the Lessee:	As set forth in Item 11 of Annex A hereto
If to the Assignee:	As set forth in Item 12 of Annex A hereto

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

21.3 Counterparts. This Lease may be executed in any number of counterparts, each of which if bearing the signature of all parties shall be deemed an original or any two or more of which containing in the aggregate the signatures of all parties shall together constitute but one and the same instrument which shall be deemed an original.

21.4 Governing Law. The provisions of this Lease and all rights and obligations of the parties hereunder shall be governed by, construed and enforced in accordance with the law of the state set forth in Item 13 of Annex A hereto; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

21.5 Limitations of Liability. It is expressly understood and agreed by and between the Lessor, the Trustor and the Lessee and their respective successors and assigns, that this Lease is executed by the Lessor, not individually or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee (and the Lessor hereby warrants that it possesses full power and authority to enter into and perform this Lease); and it is expressly understood and agreed that, except in the case of gross negligence or willful misconduct of the Lessor or the Trustor, nothing herein contained shall be construed as creating any liability on the Lessor or the Trustor, individually or personally, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Lessee and by each and every person now or hereafter claiming by, through or under the Lessee; and that so far as the Lessor or the Trustor, individually or personally are concerned the Lessee and any person claiming by, through or under the Lessee shall look solely to the Trust Estate as defined in the Trust Agreement for the performance of any obligation under this Lease.

21.6 Benefits of Lease. This Lease shall be binding upon and inure to the benefit of the Lessee, the Lessor and their respective successors and assigns; provided that nothing in this Section 21.6 shall be deemed to enlarge any right of assignment herein limited.

21.7 Titles and Section Headings. The section headings herein are for convenience only and shall not affect the construction hereof.

21.8 Execution. Although for convenience this Lease is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this equipment lease to be duly executed by their respective corporate officers thereunto duly authorized and their respective corporate seals to be hereunto affixed and attested all as of the day, month and year first above written.

THE CITIZENS AND SOUTHERN NATIONAL  
BANK OF SOUTH CAROLINA (As  
Trustee, Lessor)

(Seal)

Attest:

Robert W. Hill  
~~Secretary~~ ASSISTANT TRUST OFFICER

By

Robert W. Hill  
Title

PICKENS RAILROAD COMPANY (Lessee)

(Seal)

Attest:

William H. Lamm  
Asst Secretary

By

W. H. Lamm  
Title

State of Pennsylvania :  
County of Delaware : ss.

On this 10 day of November, 1976, before me personally appeared John A. Mariscotti, to me personally known, who being by me duly sworn, says that he is the Vice President of Pickens Railroad Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Ann Lee Zimmerman  
Title

My commission expires

January 17, 1977

Ann Lee Zimmerman, Notary Public  
My Commission Expires, Jan. 17, 1977

State of South Carolina :  
County of Greenville : ss.

On this 11 day of November, 1976, before me personally appeared Walter H. Bryant, to me personally known, who being by me duly sworn, says that he is the Vice President of National Bank of South Carolina, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Carolyn P. Bayette  
Title Notary Public for S.C.

My commission expires

5/19/80

Annex A to  
Equipment Lease

1. The name of the Lessor is: The Citizens and Southern National Bank of South Carolina.
2. The name of the Trustor under the Trust Agreement is: Funding Systems Leasing Corporation (a Delaware corporation)
3. The Trust Agreement between the Lessor and the Trustors is dated November 1, 1976 and has been entered into pursuant to, and is substantially in the form of, Exhibit A to the Finance Agreement.
4. The name of the Lessee is: Pickens Railroad Company (a South Carolina Corporation)
5. The name of the Manufacturer is: U.S. Railway Mfg. Co. (an Illinois corporation)
6. The Lessor hereby specifies that all payments provided for in the Lease shall be made to the Lessor by wire transfer of federal funds to its account and address as follows:

The Citizens and Southern National Bank of South  
Carolina  
Main Branch  
Greenville, South Carolina  
for its account, as Trustee, under trust named  
"Pickens Railroad No. 76-1"

provided that, until the Lessee is given notice that the Agreement and Indenture has been fully discharged, the Lessee is directed to make all payments to the Assignee at such account number and at such bank as provided for by Item 9 of this Annex A.

7. The termination date of the Lease with respect to each Item of Equipment shall be the day on which falls the tenth anniversary of the first Rental Payment Date with respect to such Item of Equipment; provided the termination date shall be, and be included, within the term of the Lease.
8. The words that shall be marked upon each side of each Item of Equipment are as follows: "Leased From The Citizens and Southern National Bank of South Carolina, as Lessor and Owner Trustee, and Subject to a Security Interest Recorded with the ICC under a Security Agreement Filed under the Interstate Commerce Act, Section 20c."
9. All rent and other sums due and to become due under the Lease shall be paid to the Assignee by wire transfer of

federal funds or otherwise immediately available funds to its account No. 1442562 at The Connecticut Bank and Trust Company, One Constitution Plaza, Hartford, Connecticut.

10. The address to which notices to the Lessor should be sent is as follows:

The Citizens and Southern National Bank of South  
Carolina  
P. O. Box 1449  
Greenville, South Carolina 29602  
Attn: Trust Officer - Pickens Railroad No. 76-1

11. The address to which notices to the Lessee should be sent is as follows:

Pickens Railroad Company  
P. O. Box 216  
Pickens, South Carolina 29671  
Attn: Ronald K. Gooding

12. The address to which notices to the Assignee should be sent is as follows:

Aetna Business Credit, Inc.  
P. O. Box 118  
Hartford, Connecticut 06101

Attention: I.T.L. - Commercial

13. The provisions of the Lease and the rights and obligations of the parties thereunder shall be governed by, construed and enforced in accordance with the law of the State of South Carolina subject to the proviso in Section 21.4 of the Lease contained.



DESCRIPTION OF EQUIPMENT

Manufacturer:	U. S. Railway Mfg. Co.
Plant of Manufacture:	Atlanta, Georgia
Description of Equipment (with road identifying numbers):	100 new 50 ft. type XM box cars bearing identifying numbers NSL 100,000 through NSL 100,099, both inclusive
Specifications:	Specifications No. 1282 of Southern Iron and Equipment Co. Division of U.S. Railway Mfg. Co. dated November 8, 1976
Place of Delivery:	Manufacturer's Plant, Atlanta, Georgia
Outside Deilvery Date:	December 31, 1976

Annex C to  
Equipment Lease

The Lessee agrees to pay to the Lessor, on each Rental Payment Date with respect to each Item of Equipment leased under the Lease, the amount of rental which would be computed under the formula shown below opposite the Rental Payment Date Number corresponding with the Rental Payment Date with respect to which the rental is then being calculated and made (the purchase price of any Item being that which is set forth in a bill of sale issued pursuant to the Sale Agreement):

Rental Payment  
Date Number

Amount of  
Rental Payable

1

An amount equal to the sum of: (i) an amount equal to 0.0403003% per diem of the purchase price of such Item for the period from and including the date on which the term of this Lease commenced as to such Item to and including the first Rental Payment Date plus (ii) an amount equal to 0.270198% of the purchase price of such Item.

2 through 120  
(inclusive)

An amount equal to 1.496% of the purchase price of such Item.

ADDITIONAL AGREEMENTS

Part 1

NONE

Part 2

The Lessee will not permit Consolidated Adjusted Tangible Net Worth to be less than \$200,000 at any time.

Consolidated Adjusted Tangible Net Worth, for purposes of the above covenant, shall mean, at any date:

- (1) The net book value (after deducting related depreciation, obsolescence, amortization, valuation and other proper reserves) at which the Adjusted Tangible Assets of the Lessee and all Subsidiaries would be shown on a consolidated balance sheet at such date, but excluding any amount on account of writeups of assets after December 31, 1975

MINUS

- (2) the amount at which their liabilities (other than capital stock and surplus) would be shown on such balance sheet, and including as liabilities all reserves for contingencies and other potential liabilities.

Adjusted Tangible Assets shall mean all assets except: deferred assets, other than prepaid insurance and prepaid taxes; patents, copyrights, trademarks, trade names, franchises, good will, experimental expense and other similar intangibles; unamortized debt discount and expense; and assets located and accounts and notes receivable due from obligors domiciled outside the United States of America.

## MANUFACTURER'S WARRANTIES

The Manufacturer has given to the Lessor the following express warranties with respect to the Equipment. The Lessee has been authorized by Section 5 of the Lease to assert and enforce such warranties to the extent and in the manner set forth in such Section 5:

[The following text is from the Sale Agreement and all references to Sections refer to sections of the Sale Agreement]

### SECTION 4. INDEMNITIES AND WARRANTIES.

4.1 The Manufacturer warrants that the Equipment will be built in accordance with the requirements, specifications and standards set forth in Section 1 hereof and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad or a party specified by the Railroad other than the Manufacturer and not manufactured by the Manufacturer) and workmanship under normal use and service, the Manufacturer's obligation under this section being limited to making good at its factory any part or parts of any Item of Equipment which shall be returned to the Manufacturer with transportation charges prepaid, within one year after the delivery of such Item to the Vendee, and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective. THE FOREGOING WARRANTY OF THE MANUFACTURER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EITHER EXPRESS OR IMPLIED (BY LAW OR OTHERWISE), EACH OF WHICH IS HEREBY EXPRESSLY DISCLAIMED, INCLUDING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED (BY LAW OR OTHERWISE), AS TO (a) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING BUT NOT LIMITED TO IT OR THEIR VALUE, CONDITION, DESIGN OR OPERATION OR (b) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, AND THE MANUFACTURER NEITHER ASSUMES OR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID. It is further understood and agreed that in no event shall the Manufacturer be liable for indirect or consequential damages of any kind. The Manufacturer further agrees with the Vendee that neither the inspection as provided for in Section 2.4 of this Agreement nor any examination nor the acceptance of any Items of Equipment as provided in said Section 2.4 shall be deemed a waiver or modification by the Vendee of any of its rights under this Section 4.1.

4.2 Except in cases of articles or materials specified by the Railroad or the Vendee and not manufactured by the Manufacturer and in cases of designs, systems, processes, formulas or combinations specified by the Vendee or the Railroad and not developed or purported to be developed by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Vendee from and against any liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee and its assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad, likewise, will indemnify, protect, and hold harmless the Manufacturer from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Manufacturer because of the use in or about the construction or operation of any of the Equipment or any article or material specified by the Railroad and not manufactured by the Manufacturer or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right. The Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Vendee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulas, combinations, articles or materials specified by the Vendee or the Railroad and purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Manufacturer further agrees to execute and deliver to the Vendee or the users of the Equipment, if so requested, all and every such further assurance as may be reasonably requested by the Vendee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Vendee and the Lessee of any claim known to the Manufacturer from which liability may be charged against the Vendee or the Lessee hereunder and the Vendee will give notice to the Manufacturer of any claim known to the Vendee from which liability may be charged against the Manufacturer hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

FORM OF CERTIFICATE OF ACCEPTANCE

To: U.S. Railway Mfg. Co. (Manufacturer under the Sale Agreement)  
The Citizens and Southern National Bank of South Carolina  
(Owner Trustee) (Lessor under the Lease)

I, a duly appointed inspector and authorized representative of Pickens Railroad Company, the Lessee under the Lease, and a duly appointed inspector and authorized representative of The Citizens and Southern National Bank of South Carolina (Owner Trustee), the Vendee under the Sale Agreement, pursuant to each of which this Certificate is being executed and delivered, do hereby certify that I have inspected, received, approved and accepted delivery of, on behalf of the Lessee and the Vendee, the following Items of Equipment:

TYPE OF EQUIPMENT: New 50 ft. type XM Box Car

MANUFACTURER: U.S. Railway Mfg. Co.

PLACE ACCEPTED: Atlanta, Georgia

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, is new equipment, conforms to the specifications applicable thereto, is eligible for incentive income (as that term is defined in the Interstate Commerce Commission Car Hire Rate Tables in effect on the date hereof) and at the time of delivery there was plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height the words:

"Leased From The Citizens and Southern National Bank of South Carolina, as Lessor and Owner Trustee, and Subject to a Security Interest Recorded with the ICC under a Security Agreement Filed Under the Interstate Commerce Act, Section 20c"

The execution of this certificate will in no way relieve or decrease the responsibility of the manufacturer of the Equipment for express warranties it has made with respect to the Equipment.

Inspector and Authorized Representative of the Lessee and the Vendee

SCHEDULE OF CASUALTY VALUE

The Casualty Value of each Item of Equipment on any Rental Payment Date shall be the percentage of the purchase price of such Item (as set forth in the bill of sale issued pursuant to the Sale Agreement) set forth below opposite the Rental Payment Date Number of such Rental Payment Date.

<u>Rental Payment Date Number</u>	<u>Percentage of Purchase Price of Item</u>
1	103.9136
2	103.6238
3	103.3307
4	103.0341
5	102.7341
6	102.4306
7	102.1236
8	101.8129
9	101.4987
10	101.1808
11	100.8591
12	100.5337
13	100.2046
14	99.8715
15	99.5346
16	99.1938
17	98.8490
18	98.5001
19	98.1472
20	97.7902
21	97.4290
22	97.0636
23	96.6939
24	96.3199
25	95.9416
26	95.5588
27	95.1716
28	94.7799
29	94.3836
30	93.9826
31	93.5770
32	93.1667
33	92.7515
34	92.3316
35	91.9067
36	90.8969
37	90.4661
38	90.0304
39	89.5895
40	89.1435
41	88.6923
42	88.2359
43	87.7741

Rental Payment  
Date Number

Percentage of Purchase  
Price of Item

44	87.3069
45	86.8343
46	86.3561
47	85.8724
48	84.8556
49	84.3652
50	83.8691
51	83.3673
52	82.8596
53	82.3459
54	81.8263
55	81.3006
56	80.7687
57	80.2307
58	79.6864
59	79.1357
60	78.1115
61	77.5534
62	76.9887
63	76.4174
64	75.8395
65	75.2548
66	74.6633
67	74.0649
68	73.4595
69	72.8471
70	72.2275
71	71.6007
72	70.5688
73	69.9335
74	69.2908
75	68.6406
76	67.9828
77	67.3173
78	66.6441
79	65.9630
80	65.2740
81	64.5769
82	63.8717
83	63.1582
84	62.1185
85	61.3955
86	60.6640
87	59.9240
88	59.1754
89	58.4181
90	57.6519
91	56.8767
92	56.0926
93	55.2992
94	54.4967



Rental Payment  
Date Number

Percentage of Purchase  
Price of Item

95	53.6847
96	52.6369
97	51.8141
98	50.9818
99	50.1397
100	49.2878
101	48.4259
102	47.5541
103	46.6720
104	45.7796
105	44.8769
106	43.9636
107	43.0396
108	42.1049
109	41.1592
110	40.2026
111	39.2347
112	38.2556
113	37.2650
114	36.2629
115	35.2491
116	34.2235
117	33.1859
118	32.1362
119	31.0743
120	30.0000

Annex H to  
Equipment Lease

PROVISIONS WITH RESPECT TO THE DETERMINATION OF  
THE FAIR MARKET VALUE OF ANY ITEM OF EQUIPMENT

Annex I to  
Equipment Lease

PROVISIONS WITH RESPECT TO THE DETERMINATION OF  
FAIR RENTAL VALUE OF ANY ITEM OF EQUIPMENT